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Appl. No. 10/694,749

Amdt. dated Aug. 22, 2005

Reply to Office action of June 14, 2005

Amendments to the Drawings:

The attached sheet of drawings include changes to Figure 2. This sheet replaces the original sheet showing number corrections to 42 and 43 and a previously omitted element indication at M with lead lines and 42A with lead lines.

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REMARKS/ARGUMENTS

The Examiner has initially objected to the drawings, see page 2, item 1 of the action since they do not include specific reference signs mentioned in the specification H and L, page 5, etc.

It is respectfully submitted that applicant has amended the specification, as noted above, so that the drawings will be in compliance with same.

In the specification, the Examiner has objected to the disclosure for informalities, see page 2 of the action beginning on item 3. Applicant has carefully reviewed the examiner's comments and has amended the specification, as noted above to overcome these technical issues, specifically in relation to the orientation where the plates conform to the leg portion which should be the posterior leg portion and not the medial.

The Examiner has objected to claims 9 and 12 under 37 C.F.R. 1.75(c) as being in improper form.

Applicant has amended claims 9 and 10 accordingly to overcome the multiple independent nature so that it properly reflects a single dependent claim reference.

The Examiner has objected to claims 1, 2, 4, 7,8 and 11 as filed due to informalities, see page 2 of the action, item 5 dealing again with the orientation of

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the brace to the posterior face of the leg and other language inconsistencies set forth in items 6, 7, and 8.

All of those issues have been addressed, specifically in the amended claims as set forth above and believe that they now properly along with amendment to the specification reflect the true nature of the invention.

Item 9 refers to an objection of claim 8. It is respectfully submitted that claim 8 has been canceled in the amended claims as set forth.

As to item 10 in claim 11, the Examiner states that there is an improper description for the reinforced band.

Applicant has canceled claim 11 and more importantly applicant encloses herewith a corrected sheet of drawings to renumber the elements 42 and 43 and added a new number 42A to more properly define the elements of the reinforcement band 43 which as cited in the specification is now correctly secured on the front side of the rectangular body member 42 of soft cushion material and the choice words of "band" have been redefined as "element" since it is essentially a generally rectangular to square piece of reinforcing material 43 which overlies a generally square rectangular piece of flat rectangular body member 42 and the use of the phraseology "band" is confusing and not correct in this venue.

It is believed by the submission of the correctly drawings in combination with the specification redefinition that those issues have been addressed.

The Examiner has rejected the claims under 35 U.S.C. 101, specifically claims 1 and 7, see item 12, page 5 of the action.

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The Examiner has rejected claims 1 and 2, 6-8, 10 and 11 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,733,321 to Brink, see page 6, item 14 of the Examiner's action. It is the Examiner's contention that Brink discloses the cushion material 4 wrapped around the wearer's leg, rigid upper 10 and lower 12 leg engagement plates sit against at least one part of the media (plate engagement intermediate leg) and posterior (back edge of plate engages to posterior leg) faces of the leg above and below the knee, see figures 1 and 2 of the reference.

It is respectfully submitted that the claims as now amended carefully distinguish themselves more precisely over that of the prior art and provide a more detailed and accurate description and limitation structure of applicant's claimed invention. Claim 1 has been amended specifically to state "interconnecting upper and lower leg engagement plates" which are "on the posterior face of said leg in oppositely disposed relation of said knee". It is clear that applicant's upper and lower leg engagement plates are positioned on the back posterior face of the leg and are interconnected by the adjustable locking hinge assembly 20 which as now more precisely claimed are defined as being in oppositely disposed relation to the knee.

Brink on the contrary shows two pairs of upper and lower plates 10A and 10B and 12A and 12B which are positioned essentially on the sides of the leg with the interconnecting hinge elements 18 and 20 extending therebetween which are positioned again on the sides of the knee and are not in oppositely disposed relation to the knee and are used in pairs to provide the typical side to side hinging action of most knee braces or therapeutic wraps. Applicant's invention as now more precisely claimed shows the unique combination of a single upper plate and a

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single lower plate interconnected by an adjustable hinge configuration on the posterior face of the leg essentially behind the front portion of the knee and in this sense in oppositely disposed relation to the knee joint in the frontal side of the leg.

It is the Examiner's contention that "the back edge of the plate engages the posterior leg" which is actually a perfect definition of the fact that the plate is positioned on the side of the legs in pairs and is of itself not positioned on the posterior side of the leg.

It is clear by simple comparison of the structure and now as more precisely set forth in the claims that a novel application structure has been illustrated.

Further the Examiner indicates that Brink discloses a knee stabilization means 34 overlying the knee.

It is respectfully submitted that applicant's amended claims refer to the knee stabilization means and applicant's device as not only overlying said knee, but being adjustably secured thereto by retaining straps, see claim 1 as amended extending from respective upper and lower leg engagement plates 14 and 15 which is simply not the case as set forth in any reasonable interpretation of the Brink reference since the Brink reference specifically calls for a container 34 which is constructed to receive heat or cold packs to be positioned on the knee in association with a pad 28, see figure 4 of the drawings which as the Examiner correctly identifies has multiple straps extending therefrom for attachment, they do not extend from this combined structure to the pairs of upper and lower leg engagement plates 10A and 10B and 12A and 12B.

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It is applicant's contention that this orientation of adjustable straps, specifically 45A and 45B extending from knee stabilization means which as clearly defined in claim 7 shows a unique apertured reinforcement element secured on said knee support pad and properly defines its orientation as "in spaced relation to the perimeter edge thereof, said reinforcing element defining a knee alignment area within and positioning and retaining straps extending from said knee support pad to respective upper and lower leg engagement plates" as set forth in amended claims 1 and 7.

Applicant agrees with the Examiner's contention that Brink shows a plurality of straps which are used to support respective pairs of upper and lower leg engagement plates to the leg and those straps are adjustably secured onto the leg on the outside exterior surface of the wrap.

The Examiner's comments concerning claim 6, page 7 refer to the pairs of upper and lower engagement plates are transversely contoured to registerably engage the wearer's leg and a mounting channel (see outlines of channel in figure 2 below) is defined in each of said upper and lower engagement plates where the channels of the leg engagement plates cooperate with the vertical braces 14 and 16 to allow vertical movement of the leg engagement plates along the braces.

It is respectfully submitted that the Examiner's interpretation of the reference is speculative at best since when reviewing the detailed description of the preferred embodiment, column 3, beginning on line 29, refers to the "compression members 10 and 12" (upper and lower plate pairs) that are slidably mounted in illustrative embodiment on brace means which connect the proximal support means and the

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distal support means so that the two support means are spaced up to a maximum longitudinal distance apart. Line 35, "the members 14A and 14B are pivotally connected at the hinge defining the range of motion", line 39 referring to figure 2 "slots 21 in each of the structural members 14 and 16 receive slide pins or brackets of compression members 10 and 12 so that the compression members can slide relative to the respective structural members, but can be secured thereto by appropriate operation of knobs 22 connected to the side pins or brackets (not shown)".

It is clear that the Examiner's interpretation of a channel in figure 2 is not supported by the specification in the reference since it calls for independent brackets for compression via knobs 22.

The Examiner's comments concerning claim 7, page 7 of the action have been addressed earlier of the now amended claims 1 and 7 which refers to the knee stabilization means as comprising a knee support pad adapted to overlies the wearer's knee and an apertured reinforcing element 43 secured on knee support pad 42 in spaced relation to the perimeter edge and wherein "said reinforcing element defining a knee alignment area therewithin" by means of its apertured nature.

The Examiner's comments concerning claims 8 and 11 are deemed moot since those claims have been canceled in the amended claims presented above.

The Examiner has rejected claims 3 and 4 under 35 U.S.C. 103(a), see page 8 of the action over Brink in view of applicant's own U.S. Patent 6,302,858.

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This reference is used to illustrate the locking hinge extending between interconnecting upper and lower engagement plates.

It is clear and obvious that applicant has utilized in his earlier novel adjustable locking hinge assembly in this application which provides the unique ability to adjustably hinge to interconnected leg support plates in relation to one another, but that in this application in combination with the unique forward and positioning of the knee stabilization means as now claimed provides adequate support to overcome a rejection under 35 U.S.C. 103 for obviousness as the Examiner has set forth.

The Examiner's conclusion on page 9 is that it would have been obvious to one skilled in the art to provide a therapeutic joint immobilization brace disclosed by Brink wherein the locking hinge assembly includes overlapping configuration and locking assembly taught by DeToro to allow incremental adjustments to the degree of motion in the brace of the joint.

It is respectfully submitted that at best the use of the locking hinge assembly of DeToro reference ending in 858 would be inoperative if applied to Brink which calls for oppositely disposed pairs, upper and lower compression plates 10A and 10B, 12A and 12B which are interconnected by respective independent hinge configurations for trans-lateral movement of the respective interconnected compression plates 10A, 12A and 10B and 12B. This is in direct opposition to applicant's posterior hinge action in which the single upper and single lower plate of applicant's device are allowed to be adjustably hinged in relation to one another on an angular axis which is 180 degrees of that of the Brink reference.

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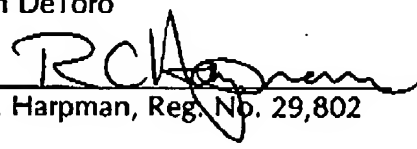
The Examiner has rejected claim 5 under 35 U.S.C. 103(a) citing the reference to Smith 6,302,858 showing the knee brace of Smith secured to the wearer's leg by straps and the straps are non-elastic.

It is therefore concluded that only applicant as set forth in the amended claims now shows and claims the unique structural configuration the elements clearly not anticipated or deemed obvious by the references cited by the Examiner either independently or in combination and accordingly if due weight is given to the amended claims and the supported amended specification, it is clear that the claims as now presently presented are in condition for allowance and the same is respectfully requested.

Respectfully submitted,

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